

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ethan Waterman	Team: Squad #10	CCRB Case #: 202002720	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 04/09/2020 5:40 PM, Thursday, 04/09/2020 5:50 PM	Location of Incident: Story Avenue and Metcalf Avenue in the Bronx; 43rd Precinct stationhouse	Precinct: 43	18 Mo. SOL 10/9/2021	EO SOL 5/4/2022	
Date/Time CV Reported Thu, 04/09/2020 11:45 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 04/15/2020 11:35 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. LT Frank Rodriguez	00000	935618	043 PCT
2. POM Umair Saqib	22664	962779	043 PCT
3. Officers			
4. POM Javiel Flores	06670	963519	043 PCT
5. POF Pamela Luna	19094	964131	043 PCT
6. SGT SA Raymond Ortiz	00319	947315	043 PCT
7. PO Jimmy Bonilla	08383	951552	043 PCT
8. POF Amanda Canales	14634	965964	043 PCT
9. An officer			
10. POM Justin Hernandez	02616	963568	043 PCT
11. DT3 Joe Bassat	00229	950054	NARCB BX
12. DT1 Jalin Bulding	00975	896246	043 DET

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Manuel Medeiros	00719	963644	043 PCT
2. POM Shawnavon Campbell	20901	962965	043 PCT
3. POM Steven Duch	22409	946958	043 PCT
4. POM Andre Brown	10601	966482	043 PCT
5. POM Enmanuel Diazsantana	11556	965047	043 PCT
6. SGT Robert Vassallo	04886	954397	043 PCT
7. Anthony Lustica		927106	
8. PO Joseph Anichiarico		950010	043 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Justin Hernandez	Abuse: In the vicinity of Metcalf Avenue and Story Avenue in the Bronx, Police Officer Justin Hernandez stopped an individual.	
B.POM Javiel Flores	Force: In the vicinity of Metcalf Avenue and Story Avenue in the Bronx, Police Officer Javiel Flores used physical force against § 87(2)(b)	
C.POM Javiel Flores	Force: In the vicinity of Metcalf Avenue and Story Avenue in the Bronx, Police Officer Javiel Flores used physical force against § 87(2)(b)	
D.DT1 Jalin Bulding	Force: In the vicinity of Metcalf Avenue and Story Avenue in the Bronx, Detective Jalin Bulding used physical force against § 87(2)(b)	
E. An officer	Force: In the vicinity of Metcalf Avenue and Story Avenue in the Bronx, an officer used physical force against § 87(2)(b)	
F.LT Frank Rodriguez	Force: In the vicinity of Metcalf Avenue and Story Avenue in the Bronx, Lieutenant Frank Rodriguez used physical force against § 87(2)(b)	
G.DT3 Joe Bassat	Discourtesy: In the vicinity of Metcalf Avenue and Story Avenue in the Bronx, Detective Joe Bassat spoke discourteously to § 87(2)(b)	
H.DT3 Joe Bassat	Abuse: In the vicinity of Metcalf Avenue and Story Avenue in the Bronx, Detective Joe Bassat refused to provide his name to § 87(2)(b)	
I.POM Umair Saqib	Discourtesy: In the vicinity of Metcalf Avenue and Story Avenue in the Bronx, Police Officer Umair Saqib spoke discourteously to § 87(2)(b)	
J.SGT SA Raymond Ortiz	Discourtesy: At the 43rd Precinct stationhouse, Sergeant Raymond Ortiz spoke discourteously to § 87(2)(b)	
K.SGT SA Raymond Ortiz	Off. Language: Sergeant Raymond Ortiz made remarks to § 87(2)(b) based upon race.	
L.PO Jimmy Bonilla	Force: At the 43rd Precinct stationhouse, Police Officer Jimmy Bonilla used physical force against § 87(2)(b)	
M.POF Amanda Canales	Force: At the 43rd Precinct stationhouse, Police Officer Amanda Canales used physical force against § 87(2)(b)	
N.POF Pamela Luna	Force: At the 43rd Precinct stationhouse, Police Officer Pamela Luna used physical force against § 87(2)(b)	
O. An officer	Force: At the 43rd Precinct stationhouse, an officer used physical force against § 87(2)(b)	
P. Officers	Abuse: At the 43rd Precinct stationhouse, officers did not obtain medical treatment for § 87(2)(b)	
Q. Officers	Abuse: At the 43rd Precinct stationhouse, officers did not obtain medical treatment for § 87(2)(b)	

Case Summary

On April 9, 2020, § 87(2)(b) called the Internal Affairs Bureau and filed this complaint as a witness regarding an incident involving her son, § 87(2)(b) and § 87(2)(b) spouse, § 87(2)(b). The CCRB received this case on April 15, 2020. This case was initially assigned to Investigator Jackie Manginelli and was reassigned to Investigator Ethan Waterman on June 28, 2021.

On April 9, 2020, at approximately 5:40 p.m., in the vicinity of Story Avenue and Metcalf Avenue in the Bronx, Police Officer Justin Hernandez of the 43rd Precinct stopped an individual (**Allegation A, Abuse of Authority: Stop**, § 87(2)(g)). Police Officer Javiel Flores of the 43rd Precinct grabbed § 87(2)(b) and allegedly tackled him to the ground (**Allegation B, Force: Physical Force**, § 87(2)(g)). PO Flores, Detective Jalin Bulding of the 43rd Precinct Detective Squad, and an unidentified plainclothes officer placed their bodies on § 87(2)(b) back, legs, shoulders, and knees (**Allegation C, Force: Physical Force**, § 87(2)(g)). **Allegation D, Force: Physical Force**, § 87(2)(g)). Lieutenant Frank Rodriguez of the 43rd Precinct allegedly stepped on § 87(2)(b) head twice (**Allegation F, Force: Physical Force**, § 87(2)(g)). Detective Joe Bassat of Narcotics Borough Bronx told § 87(2)(b) “You don’t fucking tell us what to do” and “I don’t give a shit” (**Allegation G, Discourtesy: Word**, § 87(2)(g)). Det. Bassat allegedly refused to provide his name to § 87(2)(b) upon request (**Allegation H, Abuse of Authority: Refusal to Provide Name**, § 87(2)(g)). Police Officer Umair Saqib of the 43rd Precinct said to § 87(2)(b) “If you are going to break the fucking window. Shut the fuck up,” before saying, “If you break the fucking window you are going to pay for that shit, fuck you” (**Allegation I, Discourtesy: Word**, § 87(2)(g)).

Approximately ten minutes later at the 43rd Precinct stationhouse, Sergeant Raymond Ortiz of the 43rd Precinct told § 87(2)(b) “Stop acting like an animal” (**Allegation J, Discourtesy: Word**, § 87(2)(g)). **Allegation K, Offensive Language: Race**, § 87(2)(g)). Police Officer Jimmy Bonilla, Police Officer Amanda Canales, Police Officer Pamela Luna, and an unidentified male officer (all of the 43rd Precinct) brought § 87(2)(b) to the ground and restrained her while conducting a search in a holding cell (**Allegations L, M, N, and O, Force: Physical Force**, § 87(2)(g)). Officers allegedly refused to provide medical attention to § 87(2)(b) and § 87(2)(b) upon request (**Allegations P and Q, Abuse of Authority: Refusal to Obtain Medical Attention**, § 87(2)(g)).

The investigation interviewed Sergeant Robert Vassallo of the 43rd Precinct as a witness. The investigation interviewed Sergeant Michael Balicki of Police Service Area 8 and Detective Austin Denio of the 43rd Precinct Detective Squad and determined them to be uninvolved.

Both § 87(2)(b) and § 87(2)(b) were arrested regarding this incident. § 87(2)(b) was charged with assault with intent to cause physical injury, criminal possession of a weapon in the fourth degree, menacing in the third degree, and unlawful possession of marijuana (**BR 01**). § 87(2)(b) arrest was sealed (**BR 02**). § 87(2)(b)

Additional to the body-worn camera (BWC) footage received from PO Bonilla, PO Canales, PO Flores, PO Hernandez, Lieutenant Rodriguez, and PO Saqib, the investigation received BWC from the following officers: Police Officer Joseph Anichiarico, Police Officer Andre Brown, Police Officer Shnavon Campbell, Police Officer Enmanuel Diaz-Santana, Police Officer Steven Duch, Detective Anthony Lustica, and Police Officer Manual Medeiros (**BR 05-37**). The investigation also received stationhouse footage from the 43rd Precinct stationhouse (**BR 38-43**). The relevant aspects of this video evidence shall be discussed in further detail below.

Findings and Recommendations

Allegation (A) Abuse of Authority: In the vicinity of Metcalf Avenue and Story Avenue in the Bronx, Police Officer Justin Hernandez stopped an individual.

Per the 911 CD (**BR 44-45**), at 5:34 p.m. on April 9, 2020, an individual at § 87(2)(b) called 911 and told the operator that a man and a woman had deployed mace on a security guard and stabbed another employee in the face. The individual described the woman as a 20-22-year-old Hispanic female wearing a black puffy coat with a fur collar, black Spandex, and black sneakers. The individual described the man as a 20-something-year-old dark-skinned black male wearing a camouflage jacket and navy-blue or black pants. The two had a baby boy in a stroller. The individual said that the two were walking down Noble Avenue towards the 43rd Precinct. The individual noted that the female most likely had the knife last but did not know.

§ 87(2)(b) the security guard, provided a brief statement to the CCRB (**BR 77**). § 87(2)(b) confirmed that the couple brandished a 4-inch knife to him and that he had to wash out his eyes after confronting the couple.

The manager of the § 87(2)(b) called 911 at approximately the same time and described the same circumstances with minor differences in clothing descriptions. At the 02:18 timestamp of her 911 call, the manager tells the operator that she is with the responding officers.

As identical dialogue from the § 87(2)(b) manager existed in both her 911 call and PO Flores' and PO Hernandez's BWC, the investigation determined that the manager of § 87(2)(b) rode along with PO Flores and PO Hernandez.

Between the 00:42 and 00:59 timestamps of PO Flores' first BWC (**BR 05**), while in a marked police car, the manager tells the officers that she sees the man and the woman. PO Flores points to his left and asks, "That stroller right there?" and the manager responds, "Yeah, that's her." The manager then says, "That's him. This is him on the right." At the 01:00 timestamp, PO Flores, the recorder, exits the car from the passenger door while PO Hernandez exits from the driver's door.

Per PO Hernandez's first BWC (**BR 06**), he exits his car at the 01:00 timestamp. He runs towards a black female wearing blue jeans, a black jacket, and a face mask. Prior to the stop, the female was pushing a granny cart. PO Hernandez directs her to stop and sit down on the grass, which she does. At the 01:27 timestamp, PO Hernandez handcuffs her. At the 01:52 timestamp, the female confirms that she does not know § 87(2)(b) (referred to as "him" in the clip), who is being handcuffed across the street. PO Hernandez tells the female at the 02:22 timestamp that he thought that the § 87(2)(b) manager pointed at her, but that the manager may have been pointing at § 87(2)(b) who stood across the street where § 87(2)(b) was being handcuffed. At the 02:40 timestamp, PO Hernandez uncuffs the female and apologizes. PO Hernandez initially directs the female to stay on-scene but tells her she can leave at the 03:24 timestamp.

In his CCRB interview (**BR 46**), PO Hernandez said the only reason that he approached and handcuffed the female was because the manager had pointed her out.

Per People v. Divine, 147 A.D.3d 1082 (**BR 47**), the Second Department affirmed that a citizen-informant who calls the 911 emergency number and identifies themselves is presumed personally reliable.

Per People v. DeBour, 40 N.Y.2d 210 (**BR 48**), where a police officer entertains a reasonable suspicion that a particular person has committed, is committing, or is about to commit a felony or misdemeanor, officers are authorized to conduct a forcible stop and detention of that person.

Per People v. Johnson, 152 A.D.3d 545 (**BR 49**), the Second Department affirmed that police error based on mistakes of facts can be excused so long as the mistake is reasonable.

§ 87(2)(g)

Allegation (B) Force: In the vicinity of Metcalf Avenue and Story Avenue in the Bronx, Police Officer Javiel Flores used physical force against § 87(2)(b)

In his CCRB interview (BR 50), § 87(2)(b) said that PO Flores approached and told him to put his hands up. § 87(2)(b) did not put his hands up and kept his arms down at his sides because he was confused. § 87(2)(b) did not say anything. PO Flores had his hand on his gun. When PO Flores approached § 87(2)(b) he picked § 87(2)(b) up by his torso and tackled him to the ground.

Per his first BWC (BR 05), PO Flores runs towards § 87(2)(b) at the 01:00 timestamp. PO Flores three times tells § 87(2)(b) “Show me your hands” between the 01:00 and 01:05 timestamps. PO Flores then grasps § 87(2)(b) with his left hand on § 87(2)(b) left arm, twice tells § 87(2)(b) “Get down,” and brings § 87(2)(b) to the grassy ground. PO Flores repeatedly directs § 87(2)(b) to give him his hands, which § 87(2)(b) does not do. At the 01:21 timestamp, Det. Building and another unidentified plainclothes officer arrive to assist in handcuffing § 87(2)(b).

In his CCRB interview (BR 51), PO Flores said that the § 87(2)(b) manager told him that two people displayed a knife, assaulted a security guard, and pepper sprayed the security guard before fleeing the scene. When PO Flores approached § 87(2)(b) § 87(2)(b) tensed himself. PO Flores attempted to grab § 87(2)(b) arms and put them behind his back. § 87(2)(b) tensed his arms as PO Flores tried to place them behind his back. PO Flores was unable to define what he meant by “tensed.” PO Flores brought § 87(2)(b) to the ground. PO Flores could not describe how he brought § 87(2)(b) to the ground because this incident happened 21 months prior to his interview. PO Flores did not lift or tackle § 87(2)(b). On the ground, § 87(2)(b) continued to stiffen his arms and did not allow PO Flores to put his hands behind his back.

Per Patrol Guide Procedure 221-01 (BR 52), members of service must consider the following criteria regarding the reasonable use of force: the nature and severity of the crime/circumstances; actions taken by the subject; duration of the action; immediacy of the perceived threat or harm to the subject, and/or bystanders; whether the subject is actively resisting custody; whether the subject is attempting to evade arrest by flight; number of subjects in comparison to the MOS; subject’s violent history, if known; presence of hostile crowd or agitators; subject apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence.

§ 87(2)(b) to PO Flores’ understanding, had just committed a crime involving a knife and pepper spray and fled the scene of the crime. PO Flores approached § 87(2)(b) alone. PO Flores repeatedly asked to see § 87(2)(b) hands, and § 87(2)(b) by his own admission, did not do so. PO Flores then, after grabbing § 87(2)(b) by the arm, brought § 87(2)(b) to the ground to be handcuffed and arrested. § 87(2)(g)

Allegation (C) Force: In the vicinity of Metcalf Avenue and Story Avenue in the Bronx, Police Officer Javiel Flores used physical force against § 87(2)(b)

Allegation (D) Force: In the vicinity of Metcalf Avenue and Story Avenue in the Bronx, Detective Jalin Bulding used physical force against § 87(2)(b)

Allegation (E) Force: In the vicinity of Metcalf Avenue and Story Avenue in the Bronx, an officer used physical force against § 87(2)(b)

In his CCRB interview (BR 50), § 87(2)(b) said that once PO Flores brought him to the ground, he felt multiple feet on his back, his legs, his shoulders, and his knees. § 87(2)(b) said that Det. Building leaned on his left shoulder blade towards the center of his back. § 87(2)(b) said that Det. Bulding stepped on his back.

Per PO Flores’ first BWC (BR 05), at the 01:20 timestamp, he straddles § 87(2)(b) legs and hips while Det. Bulding and an unidentified plainclothes officer come to assist. § 87(2)(g)

§ 87(2)(b) lays with his stomach on the ground. Det. Building is the officer in blue jeans, a blue Foo Fighters shirt, and a green jacket. As PO Flores gets control of § 87(2)(b) hands and begins to handcuff them, Det. Bulding places his right knee on § 87(2)(b) upper back at the 01:28 timestamp. While the exact placement of Det. Bulding's knee is not completely clear, the knee is situated above § 87(2)(b) backpack near the confluence of § 87(2)(b) upper back and neck. The unidentified plainclothes officer places his right knee on § 87(2)(b) right shoulder and upper right arm. At the 01:40 timestamp, once PO Flores has handcuffed § 87(2)(b) the three officers all stand up and turn § 87(2)(b) over onto his back.

Per Lieutenant Rodriguez's BWC between the 00:09 and 00:21 timestamps (**BR 07**), PO Flores straddles § 87(2)(b) legs while handcuffing him.

No other BWC captures this portion of the incident.

Per Patrol Guide Procedure 221-01 (BR 52), members of service must consider the following criteria regarding the reasonable use of force: the nature and severity of the crime/circumstances; actions taken by the subject; duration of the action; immediacy of the perceived threat or harm to the subject, and/or bystanders; whether the subject is actively resisting custody; whether the subject is attempting to evade arrest by flight; number of subjects in comparison to the MOS; subject's violent history, if known; presence of hostile crowd or agitators; subject apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence.

PO Flores and the unidentified plainclothes officer (in the upper right of the video frame **BR 05**) restrained § 87(2)(b) movement by straddling his lower body and placing a knee on his right shoulder and upper arm. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (F) Force: In the vicinity of Metcalf Avenue and Story Avenue in the Bronx, Lieutenant Frank Rodriguez used physical force against § 87(2)(b)

In his CCRB interview (**BR 50**), § 87(2)(b) alleged that, after he was handcuffed, Lieutenant Rodriguez twice stepped on the back-right side of his head.

Lieutenant Rodriguez's BWC never shows him step on § 87(2)(b) head (**BR 07**).

None of the other 13 BWC videos depicting this portion of the incident show Lieutenant Rodriguez stepping on § 87(2)(b) head (**BR 05-06, 08-18**).

In his CCRB interview, Lieutenant Rodriguez said that he never stepped on § 87(2)(b) head (**BR 54**).

As all available video evidence shows that Lieutenant Rodriguez never stepped on § 87(2)(b) head, § 87(2)(g)

§ 87(2)(g)

Allegation (G) Discourtesy: In the vicinity of Metcalf Avenue and Story Avenue in the Bronx, Detective Joe Bassat spoke discourteously to § 87(2)(b)

Allegation (H) Abuse of Authority: In the vicinity of Metcalf Avenue and Story Avenue in the Bronx, Detective Joe Bassat refused to provide his name to § 87(2)(b)

These allegations stem from PO Luna's BWC (**BR 10**). At the 03:53 timestamp, PO Luna handcuffs § 87(2)(b) while Det. Bassat stands in the vicinity. A handcuffed § 87(2)(b) and Det. Bassat have the following dialogue between the 04:18 and 04:35 timestamps:

- § 87(2)(b) "I don't want anybody touching me."

- Det. Bassat: "You don't have that choice, alright? You don't fucking tell us to do..."
- § 87(2)(b) "I'm not talking to you like that."
- Det. Bassat: "I don't give a shit, alright."
- § 87(2)(b) "What's your name, officer? What's your name?"

There is no audible response to § 87(2)(b) request for a name.

Upon reviewing PO Luna's BWC in his CCRB interview (**BR 55**), Det. Bassat acknowledged that he said, "You don't fucking tell us to do." Det. Bassat said that § 87(2)(b) was not the easiest person to deal with in the moments leading up to his making this statement. Det. Bassat noted that his adrenaline was up a bit. There were no other reasons why Det. Bassat used profanity in that moment.

Det. Bassat also acknowledged that he said, "I don't give a shit." Det. Bassat said that the profanity "just came out," and it was more favorable to all parties than using force, as § 87(2)(b) did not want anyone to touch her. Det. Bassat's representation, Anthony Cardinale, said that Det. Bassat's use of profanity was unintentional, and without malice – Det. Bassat agreed with this characterization.

Det. Bassat said that his name and shield were visible and unobstructed when § 87(2)(b) asked for his name. Det. Bassat also believed that he verbally provided his name and shield.

Per Patrol Guide Procedure 200-02 (BR 56), the values of the NYPD include the pledge to "maintain a higher standard of integrity than is generally expected of others" and to "respect the dignity of each individual and render [their] services with courtesy and civility."

Per DAO-DCT Disciplinary Case No. 2013-10143 (BR 57), "profanity has been found to be permissible where the officer has resorted to such language in the heat of a highly dangerous situation."

Det. Bassat's statements – "You don't fucking tell us what to do" and "I don't give a shit" – failed to uphold the NYPD's values of higher standards of integrity and of respecting the dignity of all people by acting civilly and courteously. The situation was also not highly dangerous, as § 87(2)(b) was already handcuffed and standing still. § 87(2)(g)

§ 87(2)(g)

Allegation (I) Discourtesy: In the vicinity of Metcalf Avenue and Story Avenue in the Bronx, Police Officer Umair Saqib spoke discourteously to § 87(2)(b)

This allegation stems from PO Saqib's second BWC (**BR 18**). While placing § 87(2)(b) inside a marked police vehicle, at the 01:30 timestamp, PO Saqib says to § 87(2)(b) "If you are going to break the fucking window. Shut the fuck up," before saying, "If you break the fucking window you are going to pay for that shit, fuck you."

After reviewing his BWC in his CCRB interview (**BR 78**), PO Saqib said that he used profanity towards § 87(2)(b) to calm him down and stop him from banging on the window.

§ 87(2)(g)

Allegation (J) Discourtesy: At the 43rd Precinct stationhouse, Sergeant Raymond Ortiz spoke discourteously to § 87(2)(b)

Allegation (K) Offensive Language: At the 43rd Precinct stationhouse, Sergeant Raymond Ortiz made remarks to § 87(2)(b) based upon race.

These allegations stem from PO Bonilla's BWC (**BR 21**). While PO Bonilla walks § 87(2)(b) into a holding cell, § 87(2)(b) yells at the officers around her. At the 00:32

timestamp, an apparently male voice tells § 87(2)(b) “Then stop acting like an animal.” The video does not depict who made the statement.

PO Bonilla’s BWC is the only video that captures this allegation.

PO Canales’ BWC captures the timeframe of the allegation from a different vantage point but without audio between the 00:00 and 00:03 timestamps (BR 22). Near § 87(2)(b) is PO Bonilla, Sgt. Ortiz, PO Luna (who is a female), and an unidentified male officer.

PO Bonilla had no independent recollection of his involvement in this incident (BR 59). Upon reviewing his BWC, PO Bonilla said that he heard the “Stop acting like an animal” comment. PO Bonilla did not make this comment and could not identify the voice that did make this comment.

Sgt. Ortiz had no independent recollection of his involvement with § 87(2)(b) at the stationhouse (BR 60). Sgt. Ortiz did not remember if he ever told § 87(2)(b) to, “Stop acting like an animal.” Upon reviewing PO Bonilla’s BWC, Sgt. Ortiz acknowledged that he heard the “Stop acting like an animal” comment. Sgt. Ortiz did not remember if he said this. Sgt. Ortiz did not recognize the voice as anyone else’s.

Ultimately, the investigation determined that the vocal register of the voice that said, “Then stop acting like an animal,” in PO Bonilla’s BWC closely matched that of Sgt. Ortiz. As such, the investigation has pleaded this allegation to him.

Per the Oxford English Dictionary (BR 79), the word, “animal,” can be used to negatively connote that a person is without human attributes or civilizing influences.

Per Patrol Guide Procedure 203-10 (BR 61), officers are prohibited from using discourteous or disrespectful remarks regarding another person’s ethnicity or race.

Per Patrol Guide Procedure 200-02 (BR 56), the values of the NYPD include the pledge to “maintain a higher standard of integrity than is generally expected of others” and to “respect the dignity of each individual and render [their] services with courtesy and civility.”

To tell someone to “stop acting like an animal” has offensive racial connotations of which a reasonable officer should be aware. § 87(2)(g)

Allegation (L) Force: At the 43rd Precinct stationhouse, Police Officer Jimmy Bonilla used physical force against § 87(2)(b)

Allegation (M) Force: At the 43rd Precinct stationhouse, Police Officer Amanda Canales used physical force against § 87(2)(b)

Allegation (N) Force: At the 43rd Precinct stationhouse, Police Officer Pamela Luna used physical force against § 87(2)(b)

Allegation (O) Force: At the 43rd Precinct stationhouse, an officer used physical force against § 87(2)(b)

These allegations stem from PO Bonilla’s BWC (BR 21). At the 00:38 timestamp, PO Bonilla walks § 87(2)(b) to a holding cell. § 87(2)(b) yells at PO Bonilla and several other officers standing in the immediate vicinity. After PO Bonilla lets go of § 87(2)(b) and backs away from her, § 87(2)(b) approaches PO Bonilla and the other officers, yelling, “Don’t push me, I’ll spit right in your face.” The unidentified male officer extends his hand and contacts § 87(2)(b) torso, preventing her from leaving the cell. § 87(2)(b) continues to scream at the officers and yells at them to take her handcuffs off. PO Luna enters the cell and directs § 87(2)(b) to turn around, and § 87(2)(b) says, “No.” At the 00:50 timestamp of PO Bonilla’s BWC, an unknown male officer and PO Luna walk into the holding cell and push § 87(2)(b) against a wall. § 87(2)(b) continues to yell and claims that there are no cameras in the holding cell. Per PO Bonilla’s BWC at the 00:58 timestamp (though the perspective is somewhat unclear), the following officers guide her to the ground – PO Bonilla, PO Canales, PO Luna, and the same unidentified male officer. PO Bonilla attempts to remove § 87(2)(b) shoes (which still have shoelaces on them) while PO Luna begins to conduct a search of § 87(2)(b). At the 01:16

timestamp, as PO Bonilla begins to remove § 87(2)(b) shoes, § 87(2)(b) kicks her feet up and down while screaming, “Y’all not moving shit!” and “Get the fuck off of me!” multiple times. She also screams, “Get off of me!” multiple times. PO Bonilla then pushes § 87(2)(b) legs against the floor while an unseen officer leg-shackles § 87(2)(b). From the 02:00 timestamp onward, PO Luna continues to search § 87(2)(b) who continues to yell at the officers. PO Bonilla holds § 87(2)(b) legs down during this time. An unseen officer explains to § 87(2)(b) that officers must do a thorough search before leaving her in the holding cell. Between the 03:25 and 04:10 timestamps, § 87(2)(b) kicks her legs multiple times while yelling at the officers to, “Get the fuck off of me,” calling the officers, “Faggots,” and threatening the officers by saying, “I’m gonna violate y’all” and “I’m going to spit right in your face.”

PO Canales also activated her BWC and apparently assisted in searching § 87(2)(b) however, her camera falls off at the 00:47 timestamp and officers’ actions are unclear (**BR 22**).

PO Bonilla said he had no independent recollection of the incident (**BR 59**). Upon reviewing his BWC, PO Bonilla said that he held § 87(2)(b) legs down because she was kicking. PO Bonilla attempted to bend one leg behind the other to keep both legs down; this would prevent § 87(2)(b) from being able to leverage her leg strength to kick anyone. PO Bonilla saw that another officer brought leg shackles because § 87(2)(b) was kicking but did not know who did so. PO Bonilla believed that § 87(2)(b) attempted to spit and bite officers. § 87(2)(b) also said that she was going to spit at officers. PO Bonilla did not know how the other officers dealt with § 87(2)(b) upper body. To his knowledge, § 87(2)(b) had not yet been searched at the stationhouse.

Per Patrol Guide Procedure 208-05 (**BR 62**), upon arrival at the precinct of arrest, the arresting officer or another designated officer of the same gender as the prisoner, shall conduct a thorough search of the prisoner’s person and clothing to ensure the safety of all persons within the facility and to remove weapons, contraband, and evidence.

Per Patrol Guide Procedure 221-01 (**BR 52**), members of service must consider the following criteria regarding the reasonable use of force: the nature and severity of the crime/circumstances; actions taken by the subject; duration of the action; immediacy of the perceived threat or harm to the subject, and/or bystanders; whether the subject is actively resisting custody; whether the subject is attempting to evade arrest by flight; number of subjects in comparison to the MOS; subject’s violent history, if known; presence of hostile crowd or agitators; subject apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence.

Furthermore, per Patrol Guide Procedure 221-01, members of service shall not use any level of force on handcuffed or otherwise restrained subjects unless necessary to prevent injury, escape, or to overcome active physical resistance or assault.

Prior to placement in the cells, it was required that officers thoroughly search § 87(2)(b) and remove dangerous items such as strings and shoelaces. As there were still shoelaces in her shoes when PO Luna, PO Canales, PO Bonilla the investigation determined that § 87(2)(b) had not yet been thoroughly searched. § 87(2)(b) threatened to spit on officers and yelled at officers to let her out of her handcuffs. § 87(2)(b) did not cooperate with the search. After PO Luna, PO Canales, PO Bonilla, and the unidentified male officer placed her on the ground to conduct the search, § 87(2)(b) repeatedly kicked at officers for more than two minutes and repeatedly threatened to “violate” the officers and spit on them. In response, PO Canales, PO Bonilla, and the unidentified male officer restrained her while PO Luna conducted the thorough search. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (P) Abuse of Authority: At the 43rd Precinct stationhouse, officers did not obtain medical treatment for § 87(2)(b)

Allegation (Q) Abuse of Authority: At the 43rd Precinct stationhouse, officers did not obtain medical treatment for § 87(2)(b)

In his CCRB interview (**BR 50**), § 87(2)(b) said he was placed in a cell in the back of the 43rd Precinct stationhouse where no one could hear him. § 87(2)(b) screamed and then asked for EMS. He did not ask any officer specifically for EMS. No one came to help him. He put himself in sight of a security camera to ask for assistance and no one came. § 87(2)(b) said a detective came to the rear and gave § 87(2)(b) his cellphone to allow him to make a phone call. § 87(2)(b) later yelled outside the stationhouse and said that he needed assistance — § 87(2)(b) believed that his mother hear him yelling outside the stationhouse that he needed to see a doctor.

§ 87(2)(b) said he also heard § 87(2)(b) yelling somewhere else in the stationhouse. § 87(2)(b) was yelling for help and asked the officers what they were doing. The officers told her that if she could not be quiet then they could take her to the ER and she said, “Then take me, then take me.” § 87(2)(b) also yelled at the police to take the leg shackles off her legs.

§ 87(2)(b) said that he did not need medical assistance but was asking to see a doctor to find out if officers would come to his aid. At no point did § 87(2)(b) receive medical assistance.

§ 87(2)(b) declined to participate in the investigation.

In her CCRB interview (**BR 63**), § 87(2)(b) said that when she arrived at the stationhouse, she heard § 87(2)(b) screaming from above her, “Help, guards, help me.” § 87(2)(b) heard § 87(2)(b) shaking on the cell door and cursing. § 87(2)(b) did not hear him explicitly asking for an ambulance or for EMS. § 87(2)(b) asked the police officers to let § 87(2)(b) know that she was there, and she whistled to § 87(2)(b) so he knew that she was nearby and so that he would calm down. She also heard § 87(2)(b) screaming for help and that she had kidney problems at the time. § 87(2)(b) did not explicitly ask for an ambulance or for EMS.

§ 87(2)(b) § 87(2)(b) brother, provided a phone statement as a witness regarding this allegation (**BR 64**). § 87(2)(b) said that he heard § 87(2)(b) screaming, “Help!” from a holding cell when he went to the 43rd Precinct stationhouse on the night of April 9, 2020.

A request for medical treatment of prisoner reports revealed negative results (**BR 65**).

No BWC showed § 87(2)(b) or § 87(2)(b) asking for medical attention.

Per his arraignment sheet, § 87(2)(b) was at the 43rd Precinct stationhouse between 5:45 p.m. on April 9, 2020 and 2:24 a.m. on April 10, 2020 (**BR 66**).

While her arraignment sheet did not list the exact time of her release, § 87(2)(b) was at the 43rd Precinct stationhouse starting at 5:45 p.m. and was issued a desk appearance ticket at 12:16 a.m. on April 10, 2020 (**BR 67**).

The investigation received stationhouse footage that captured the interior areas of the stationhouse between 6:45 p.m. and 7:45 p.m. Stationhouse footage showed that § 87(2)(b) was lodged in an overflow cell (**BR 38**). In the stationhouse footage depicting the overflow cells, § 87(2)(b) clearly yells and gesticulates through much of the hour. He speaks with officers twice — with a uniformed officer between the 19:37 and 21:00 timestamps, and with a plainclothes officer between the 35:20 and 36:00 timestamps — but, as stationhouse video lacks an audio component, it is impossible to know what he says to these two officers.

Stationhouse footage depicting Cell #2 shows § 87(2)(b) sitting alone in the cell for much of the hour (**BR 40**). § 87(2)(b) interacts with uniforms between the 07:37 and 09:47 timestamps, the 38:36 and 39:55 timestamps, and the 49:42-53:55 timestamps, but, as stationhouse video lacks an audio component, it is impossible to know what § 87(2)(b) says to these officers.

The investigation was unable to determine the identities of the officers depicted in the stationhouse footage.

Per the third tour 43rd Precinct roll call, Sgt. Vassallo was the desk sergeant (**BR 68**).

In his CCRB interview (**BR 69**), Sgt. Vassallo said he had no independent recollection of this incident. Sgt. Vassallo had no recollection of § 87(2)(b) or § 87(2)(b) ever requesting medical attention. Sgt. Vassallo did not recall any other officers ever telling him that they had requested medical attention. Sgt. Vassallo did not recall if he ever refused to provide medical attention to § 87(2)(b) or § 87(2)(b). Sgt. Vassallo did not recognize either of the officers depicted speaking with § 87(2)(b) in stationhouse footage.

In his CCRB interview (**BR 59**), PO Bonilla said that he never heard § 87(2)(b) request medical attention.

In his CCRB interview (**BR 60**), Sgt. Ortiz said he worked an administrative assignment at the stationhouse during his tour on April 9, 2020. Sgt. Ortiz did not remember hearing § 87(2)(b) and § 87(2)(b) ask for medical attention inside the stationhouse.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
§ 87(2)(b)
 - § 87(2)(b)
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 - § 87(2)(b)
- This is the first complaint to which § 87(2)(b) has been a party (**BR 71**).
- This is the first complaint to which § 87(2)(b) has been a party (**BR 72**).
- Det. Bassat has been a member of service for 10 years and has been a subject in two CCRB complaints and four allegations, none of which were § 87(2)(g) § 87(2)(g)
- PO Bonilla has been a member of service for 10 years and has been a subject in six CCRB complaints and seven allegations, two of which were § 87(2)(g)
 - 201500694 involved § 87(2)(g) allegations of discourtesy – word and offensive language on the basis of race. The Board recommended Command Discipline B and the Deputy Commissioner of Trials determined that PO Bonilla was not guilty.
 - § 87(2)(g)
- Det. Bulding was a member of service for 30 years and was a subject in 13 CCRB complaints and 29 allegations, eight of which were § 87(2)(g)
 - 9405074 involved § 87(2)(g) allegations of gun pointed, property damaged, and discourtesy – curse. The Board had no recommendation.
 - 9603083 involved § 87(2)(g) allegations of a punch/kick, threat of force, and discourtesy – nasty words. The Board recommended charges. The Office of Administrative Trials and Hearings dismissed the charges because the complainant did not show.
 - 200502200 involved § 87(2)(g) allegations of refusal to provide name/shield number and discourtesy – word. The Board recommended charges and the NYPD imposed instructions.
- PO Canales has been a member of service for three years and this is the first CCRB complaint to which she has been a subject.
- PO Flores has been a member of service for four years and has been a subject in a single CCRB complaint and allegation, which was not § 87(2)(g) § 87(2)(g)

- PO Hernandez has been a member of service for four years and has been a subject in a single CCRB complaint and two allegations, neither of which were § 87(2)(g) § 87(2)(g)
- PO Luna has been a member of service for four years and this is the first CCRB complaint to which she has been a subject. § 87(2)(g)
- Sgt. Ortiz has been a member of service for 13 years and has been a subject in three CCRB cases and five allegations, none of which were § 87(2)(g) § 87(2)(g)
- For PO Saqib, this was the first and only complaint to which he was a subject.

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of October 27, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed regarding this complaint (**BR 73**).

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Squad: 10

Investigator: Ethan C. Waterman Inv. Ethan Waterman 03/01/2022
Signature Print Title & Name Date

Squad Leader: Eric Rigie IM Eric Rigie 3/1/2022
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date